



City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

April 6, 2006

CALL TO ORDER:

Chair John Jostes called the meeting to order at 1:13 P.M.

ROLL CALL:

Present:

Chair John Jostes

Vice-Chair Charmaine Jacobs

Commissioners, Stella Larson, Bill Mahan, George C. Myers, Addison S. Thompson and Harwood

A. White, Jr.

STAFF PRESENT:

Bettie Weiss, City Planner

Jan Hubbell, Senior Planner

Danny Kato, Senior Planner

Chelsey Swanson, Assistant Planner

Steve Wiley, City Attorney

Julie Rodriguez, Planning Commission Secretary

I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

No requests were made.

- B. Announcements and appeals.

No announcements were made.

- C. Comments from members of the public pertaining to items not on this agenda.

Chair Jostes opened the public hearing at 1:14 P.M. With no one wishing to speak, the public hearing was closed at 1:14 P.M.

II. CONSENT ITEMS:

ACTUAL TIME: 1:14 P.M.

APPLICATION OF TERI GREEN, AGENT FOR ROBERT WHITEHEAD, PROPERTY OWNER, 1642 SHORELINE DRIVE, 045-172-020 , E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS PER ACRE (MST2004-00713)

The project consists of a 1,017 square foot, second-story addition and a 250 square foot interior remodel to an existing 1,733 square foot single-story, single-family residence on a 7,753 square foot lot in the Appealable Jurisdiction of the Coastal Zone. Parking is provided by an existing two-car garage.

The discretionary applications required for this project are:

A Coastal Development Permit (CDP2005-00015) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

Case Planner: Chelsey Swanson, Assistant Planner

Email: cswanson@SantaBarbaraCA.gov

Chelsey Swanson, Assistant Planner, gave a brief Staff presentation adding that two letters were received from the public.

Teri Greene, Greene and Associates, gave the applicant presentation and introduced the applicant team. Joaquin Ornelas provided a recap of the original project plans. Robert Whitehead, owner, added comments on the proposed architecture.

Commissioner's questions and comments:

1. Asked to view layout of the existing floor plan.
2. Asked if Staff had a sense of the setback of the house that is four lots to the east of the project.
3. Asked if Staff knew the FAR of the residence in question.

Ms. Swanson reviewed the floor plan requested and addressed the Commission's questions.

Chair Jostes opened the public hearing at 1:31 P.M.

The following person spoke in support of the project:

1. Michelle Giddens

The following person spoke in opposition to the project:

1. Helene Webb: Private view loss
2. Georgene Vairo: Size/bulk/scale/Incompatible with the neighborhood.
3. Rachel Kauffman: Privacy loss
4. Jon Kauffman: Privacy loss/ Incompatible with neighborhood/ inaccurate site plan.
5. Mary Wise: Privacy loss/ Incompatible with neighborhood

Mr. Wiley stepped out of Council Chambers at 1:33 P.M.

With no one else wishing to speak, the public hearing was closed at 1:42 P.M.

Commissioner's comments and questions:

1. Asked Staff for accuracy of site plan submitted by Mr. Kaufman.
2. Asked Mr. Kaufman where information on footprint was obtained.
3. Asked Staff if the pool equipment is acceptable to have in a setback.
4. Referenced the Neighborhood Preservation Ordinance (NPO) findings and asked if the PC could ask the ABR for a 2/3 majority vote when a proposed house exceeds the Draft Maximum FAR limit to approve the project in its final form.
5. Asked about the number of existing two story homes in the neighborhood.
6. Commented on the upcoming NPO; 'neighborhood' defined as the closest twenty houses. Commented that once NPO is updated a super-majority vote will be required by the ABR if a house is over 85% maximum FAR. Flat-roofed homes can seem problematic in a neighborhood that doesn't have any.
7. Concerned with garage height; feels that the garage could be lowered to 8 feet. Would like to see the cornice flow with the street and not appear so linear. East elevation second story should be reduced in height. Would like to see the second floor family room set back; suggest ABR condition the setback. Suggested moving the second floor back five feet and the reduction of plate heights by 2 feet. Would like to condition that a survey of the site be made.
8. Would like to see a more residential, less institutional, look on the West elevation.
9. Commended the applicant for working with the neighborhood. Would like to see this project go to back to the ABR after more dialogue with neighbors.
10. Consensus of some Commissioners that they could not support the project at this time.
11. Commented that the Planning Commission deals with land use issues; the present issues are more architectural and should be directed to ABR. Commented that private views are not under the realm of the Planning Commission and that no public views are being impacted by the project. Feels that the project is compatible with the General Plan and Local Coastal Plan.
12. Noted that the plate height on this project had been raised by a former owner and has resulted in the challenging design. Asked if there are 8 foot plate heights anywhere in the project. The second floor coming southward appears looming. Feels the project should go

back to the ABR with the Planning Commission's comments. Some of the square footage may be able to move to the ground floor.

13. Can support Coastal Development Permit and land use for second floor, but cannot support findings and feels that the project should return to ABR.
14. Noted that the existing 10 foot plate heights and the addition of a second story will create non-conformity with the neighborhood and needs to be reconsidered.
15. Thanked Staff for very well done FAR analysis; one of the best seen. Believes that PC can resolve issues today without having the project return to the PC.
16. Consensus of Commissioners agree that the plate heights should be lowered, the second story should be setback more, and the fenestration of the West area should be addressed
17. Asked the applicant if stair tower could be lowered.
18. Asked about fenestration of the master bedroom.

Ms. Hubbell was not clear on where Mr. Kauffman obtained information, nor the accuracy. If accurate, it gives the appearance of a minor encroachment of about 1 foot into the interior yard setback.

Mr. Ornelas addressed the privacy issue and said that the applicant is willing to work with the neighbor on maintaining privacy. He will provide a survey.

Mr. Kaufman obtained information from measurements taken during an open house when the property was on the market. Additional information was obtained from the City's floor plans.

Ms. Hubbell stated that pool equipment is not okay in the setback if it exceeds 10 inches in height. If it is in the setback, it would need to be relocated.

Ms. Hubbell deferred the ABR question to City Attorney Steve Wiley on his return.

Ms. Swanson presented a slide showing the number of two story homes in the neighborhood.

Mr. Wiley returned at 1:51 P.M.

Mr. Wiley stated that the Planning Commission, under the City charter, has no jurisdiction over the ABR, and cannot require a two-thirds majority vote.

Ms. Greene said the applicant is willing to step down the family room to break up the elevation, adjust the cornice detail, conduct a survey if necessary, and work on the west area fenestration; request an approval today. Mr. Ornelas stated that the second floor can be pulled back five feet and the plate height of the garage and the cornice can be lowered.

MOTION: Mahan/Myers

Assigned Resolution No. 014-06

Approve the project with the following conditions: 1) The south facing façade of the second story shall be moved north five feet; 2) Plate heights in the garage shall be reduced to 8 feet; 3) The second story gallery plate heights will not exceed 9 feet; 4) Study reducing the height of the stair

tower; 5) The west face of the gallery shall be changed to provide windows; 6) The ABR shall review the privacy views on the north façade and shall revise, as reasonable, to provide privacy for all parties; and 7) A survey of the site shall be conducted prior to ABR preliminary approval of the project to determine accuracy of the building footprint to establish the legality of the building setbacks and whether pool equipment and fencing are in appropriate locations.

This motion carried by the following vote:

Ayes: 6 Noes: 1 (White) Abstain: 0 Absent: 0

Commissioner White appreciates the direction of the proposal, but would have liked to have seen the project return one more time before approving.

Commissioner Mahan added that since the recommended (Draft) FAR maximum is exceeded in this project, close scrutiny from ABR is appropriate.

Chair Jostes announced the ten calendar day appeal period.

III. APPEAL OF STAFF HEARING OFFICER DECISION:

ACTUAL TIME: 2:22 P.M.

Commissioner's White and Jacobs left the dais.

APPEAL OF TONY FISCHER, AGENT FOR JOHN AND KATHY COOK, OF A MODIFICATION APPROVAL OF AN APPLICATION OF SYNDI SOUTER, AGENT FOR SCOTT MCCOSKER, FOR 1464 LA CIMA ROAD, APN 041-022-0032, R-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS PER ACRE (MST2006-00026)

The 10,615 square foot project site is currently developed with a 2,000 square foot single family residence and attached garage. There is currently construction occurring on the property which will result in approximately 500 square feet of first, lower, and upper level additions, as well as the carport being converted into a garage. It has been brought to Staff's attention that a 31 square foot portion of the upper level addition was approved, permitted, and built within the required twenty-foot front yard setback.

The discretionary application required for this project is a Modification to permit new construction within the required twenty-foot (20') front yard setback (SBMC §238.15.060).

On February 1, 2006, a Public Hearing was held and the Staff Hearing Officer made the required findings and approved the encroachment. This is an appeal of that decision.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 (ENV2006-00026).

Case Planner: Roxanne Milazzo, Associate Planner

Email: rmilazzo@SantaBarbaraCA.gov

Danny Kato, Senior Planner, gave the Staff presentation and introduced Bettie Weiss, Staff Hearing Officer.

Commissioner's questions and comments:

1. Asked Staff about the prior modification approval for the carport last year and whether it was in front of this setback issue.
2. Asked if the modification is the only issue today, or if this was looking at all past modifications.
3. Asked if the modification could be granted under a hardship finding.

Mr. Kato stated that the modification approved by the Commission in May of last year was for the existing carport to be enclosed by adding a garage door. This modification is set back 5-6 feet from that. The modification that has been appealed is for the 31 foot square foot addition as-built, because it was missed and that is the only modification being considered today. Mr. Kato stated that there are several findings that could be made to approve a setback modification, but the hardship application is rarely used. It is believed this is an appropriate improvement and a modification is necessary for it.

Tony Fischer, agent for the appellant, gave the neighbor's presentation. Appellants John and Kathy Cook read a comment letter and showed a video of a past ABR meeting to make their point for a denial of the modification.

Steve Amerikaner, attorney for the applicant, introduced his team and gave a PowerPoint presentation, speaking to the issue of the approved modification. He noted that all other issues were not relevant to the approved modification and that to deny the modification would present a hardship.

Commissioner's comments and questions:

1. Asked City Attorney for input on whether all issues, beyond the approved modification, should be considered in the appeal.

Steve Wiley, City Attorney, stated that it would be a judgment call from the chair on whether or not all issues should be considered beyond the scope of the modification. The Chair stated that the Commission would only be looking at issues pertaining to the approved modification on appeal.

Mr. Wiley advised that the Commission, as a result, it now had no authority to require changes in the prior ABR approval (i.e., the deck and the chimney) as a condition of (or in connection with) the approval or denial of the requested front yard modification.

Chair Jostes opened the public hearing at 3:05 P.M.

The following person spoke in support of the appeal:

1. Stephanie Douglas shared a video clip from an ABR meeting regarding the fireplace chimney.

With no one else wishing to speak, the public hearing was closed at 3:10 P.M.

Commissioner's comments:

1. Did not understand the last video clip. Asked Mr. Hochhauser, project architect, for clarification of what appeared to be chopped video of an ABR meeting presented by speaker Douglas.
2. Feels that all issues should be considered; approvals have appearance of being piecemealed. Disagrees with not taking all issues under consideration; believes that this decision will go to City Council. Cannot find basis for making findings.
3. Questions who should bear responsibility of oversights: owner, neighbor, or commissions. Feels there is a larger issue of neighbor compatibility, not neighborhood compatibility. The house itself is compatible with the neighborhood.
4. Suggests that the project applicant work with neighbors for a resolution.
5. Concerned with chimney and sees things like glass railings that are not in the guidelines and a giant chimney and wonders if there is a better use of space; cannot support modification at this time.
6. Consensus of Commissioners cannot support the modification at this time.
7. At issue is a modification that was approved; does not see any neighborhood improvement that would be accomplished in the denial of the modification.
8. Feels that although the opinion to consider all the issues makes sense, feels that this is a narrow issue. It would be nice to go back and start over, but that is not possible.

Mr. Hochhauser, architect for the applicant, responded with clarification of the ABR video presented. Most of the original project was approved on consent at ABR, under the 500 square foot threshold, and did not require a full board review. During construction, a return to ABR was made for minor modifications. This modification was missed and for that reason came before the ABR again. All aspects of the project have been approved by ABR.

Ms. Weiss commented to the Commission on Council appeal hearings stating that the City Council would prefer not to be put in a situation to have to resolve matters that should take place between two single-family property owners. She added that the Council does not feel that the public interest is served when debating issues such as a fence or a wall, when Staff or Advisory Boards can resolve those matters.

Mr. Amerikaner feels that the Commission has formed an opinion based on the appellant's presentation on many issues, all of which were not rebutted by the applicant. He would like the opportunity to present a rebuttal to the issues that were presented.

Mr. Fischer thanked the Commission for its deliberations and stated that the modification was benefiting the entire lot and not just a portion.

MOTION: Thompson/Myers

Assigned Resolution No. 015-06

Deny the appeal.

Discussion on the motion:

1. Does not think that reduction of the chimney is the issue, but the 'obnoxiousness' of its presence. The arguments for denial have been weak.
2. Agrees that the chimney is not the issue, but the appearance of piecemealing. Does not believe it is appropriate to look at single issue today, without looking at all issues that have surfaced. Will not support any motion.
3. Commission agrees that there has been no intention of impropriety in the approvals; inadvertent actions.
4. Asked City Attorney if appropriate to take a straw vote for consideration of a motion that is on the floor.
5. Agreed that, if the Commission has not heard the applicant's rebuttal to all the issues presented today, that a decision could not be made on a motion.
6. Asked if Mr. Hochhauser designed the addition in the front of the house. Asked if the chimney was originally part of the approval.
7. This property has a view easement and this chimney is outside of the view easement. Asked the applicant if there is a technical reason that the chimney is so high.
8. Suggested extending the privacy wall to the chimney would mitigate the neighbor's concerns.
9. Asked Mr. Fischer if the chimney and the wall are within the view easement.\
10. Asked Mr. Hochhauser if it is a metal chimney and what the manufacturer's recommendations are for the height.
11. All Commissioners expressed appreciation for the additional information.

Mr. Wiley stated that a straw poll could be conducted. The City Attorney's office had looked at the chimney issue before and determined that, at some point, all city decisions are final. They did determine that this is a code enforcement issue if inconsistent with ABR approval. There has been no evidence that this chimney has been built incorrectly.

Mr. Hochhauser stated that the project has not been piecemealed. This was one project and all subsequent visits to the ABR had to do with changes to details of an approved project and the reason for the project being reviewed on the consent calendar. Mr. Hochhauser added that the height of the chimney is due to smoke considerations. He added that lowering the chimney might not appease the neighbor's concerns.

Ms. Weiss pulled the file and stated that the original project approved on March 18, 2002, was for the 500 square foot addition and included the chimney. Ms. Weiss corrected that it was the final

approval of the project on July 28, 2003, that included the chimney. They had preliminary approval a year earlier, but the chimney was included in the final approval.

Mr. Amerikaner volunteered to show additional PowerPoint photos to add clarity to what the chimney and deck look like from the applicant's lot. Mr. Hochhauser gave a short presentation regarding the chimney.

Mr. Fischer stated that the consent calendar included increasing the chimney height and the screening wall. He challenges the view easement as viewed from the inside of the appellant's house. States that the plans are very confusing as to what was actually built. States that Mr. Wiley did not note that under the consent calendar, neighbors were not noticed. He further added that view is also a public view issue.

Ms. Weiss read the ABR minutes supporting the chimney and the wall.

Mr. Hochhauser stated that the chimney is an Isokern chimney and the actual masonry box that comes as the kit is 6 feet with a raised hearth that brings the height to 7 ½ feet before the stainless steel flue is added.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (White, Jacobs).

Chair Jostes announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

- Commissioner Thompson reported on the Airport Commission's Federal Aviation Administration Part 150 Noise Compatibility Study submitted last year. There may be some items in our General Plan that unenforceable and violate Federal Aviation Regulations. Mr. Thompson answered peer questions.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

None were requested.

C. Action on the review and consideration of the items listed in I.B.3. of this Agenda.

MOTION: Mahan/Myers

Approve the minutes of February 16, 2006, as corrected.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (White, Jacobs)

VII. ADJOURNMENT

Chair Jostes adjourned the meeting at 4:16 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary